

**BEFORE THE BOARD OF CONTRACTORS**

**STATE OF IDAHO**

In the Matter of the Registration of:	)	
	)	Case No. CON-2007-20
MICHAEL TRIGG,	)	
Registration No. RCT-17851,	)	<b>STIPULATION AND</b>
	)	<b>CONSENT ORDER</b>
Respondent.	)	
_____	)	

WHEREAS, information having been received by the Idaho Contractors Board (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Michael Trigg (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A.**

1. The Board may regulate the practice of contracting in the State of Idaho in accordance with title 54, chapter 52, Idaho Code.

2. Respondent Michael Trigg is a registrant of the Idaho Contractors Board and holds Registration No. RCT-17851 to practice as a contractor in the State of Idaho. Respondent's registration is subject to the provisions of title 54, chapter 52, Idaho Code.

3. On or about September 29, 2006, the Bureau of Occupational Licenses ("Bureau") received a Notice of Coverage Termination from Respondent's insurance company stating that Respondent's general liability insurance had been canceled as of September 29, 2006.

4. On or about October 11, 2006, the Bureau sent Respondent a letter requesting verification of current insurance coverage within 14 days of the date of the letter. Respondent failed to provide verification of insurance coverage as requested.

5. On December 11, 2006, Respondent filed a Chapter 7 bankruptcy in Idaho Bankruptcy Court Case No. 06-01573. Pursuant to 11 U.S.C. § 362(b)(4), the Board's commencement and continuation of this proceeding to enforce the Board's police and regulatory power is exempt from the bankruptcy stay provisions of 11 U.S.C. § 362(a). Furthermore, pursuant to 11 U.S.C. § 523(a)(7), debts for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit are excepted from Respondent's bankruptcy discharge under 11 U.S.C. § 727.

6. On December 19, 2006, the Board entered an Order of Emergency Suspension of Registration and Notice of Hearing in this case suspending Respondent's registration.

7. Respondent's failure to maintain insurance coverage constitutes a violation of the laws and rules governing the practice of contracting, specifically Idaho Code § 54-5215(2)(a), and constitute grounds for disciplinary action against Respondent's registration to practice as a contractor in the State of Idaho.

8. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his registration as set forth in Section C below.

## **B.**

I, Michael Trigg, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my registration to practice as a contractor in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of contracting in the State of Idaho. I hereby freely and

voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my registration without further process.

**C.**

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Attached hereto as Exhibit A, Respondent is providing to the Board a Certificate of Liability Insurance, dated January 19, 2007, to verify reinstated commercial general liability insurance coverage.

2. Respondent shall pay to the Board an administrative fine in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) within thirty (30) days of the entry of the Board's Order.

3. All costs associated with compliance with the terms of this stipulation are the sole responsibility of Respondent.

4. The Board shall terminate the emergency suspension of Registration No. RCT-17851; provided, however, that the suspension shall remain in effect through and until the Board issues an Order adopting this Stipulation and Consent Order.

5. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

**D.**

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this settlement agreement, and if rejected by the Board, an administrative Complaint will be filed. By signing this document, Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the Complaint based on the fact that the Board has considered and rejected this settlement agreement. Pursuant to Idaho Code § 67-5252, Respondent retains the right to otherwise challenge the impartiality of any Board member to hear the allegations in the Complaint based upon bias, prejudice, interest, substantial prior involvement in the case or any other reason provided by law or for any cause for which a judge is or may be disqualified.

3. If the Board does not accept this Consent Order then, except for Respondent's waiver set forth in Paragraph D(2), above, it shall be regarded as null and void. Admissions by Respondent in the settlement agreement will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. With the exception of Paragraph D(2), above, which becomes effective upon Respondent signing this document, this Consent Order shall not become effective until it has been approved by a majority of the board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-5215. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether or not Respondent has defaulted under this agreement. The director shall also serve notice of the default hearing and charges to

Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of default hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations of default will be deemed admitted.

b. At the default hearing, the Board and Respondent may submit affidavits made on personal knowledge and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or trials.

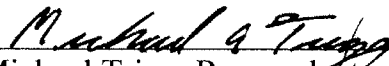
c. At the default hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's registration.

7. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

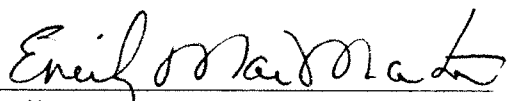
DATED this 19 day of January, 2007.

  
Michael Trigg, Respondent

I concur in this stipulation and order.

DATED this 19<sup>th</sup> day of January, 2007.

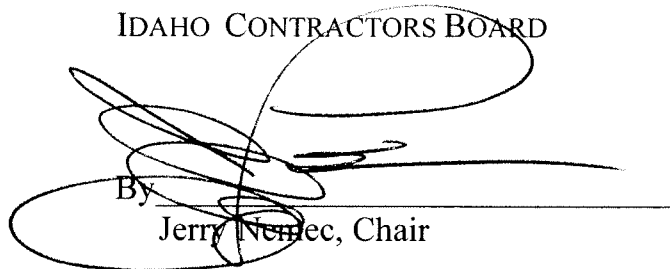
STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By   
Emily A. Mac Master  
Deputy Attorney General

### ORDER

Pursuant to Idaho Code § 54-5207, the foregoing is adopted as the decision of the Idaho Contractors Board in this matter and shall be effective on the 25<sup>th</sup> day of Jan, 2007. **IT IS SO ORDERED.**

IDAHO CONTRACTORS BOARD

  
By \_\_\_\_\_  
Jerry Nemec, Chair

## CERTIFICATE OF SERVICE

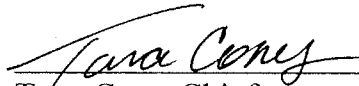
I HEREBY CERTIFY that on this 29<sup>th</sup> day of January, 2007, I caused to be served a true and correct copy of the foregoing by the following method to:

Michael Trigg  
2378 W. Panama Street  
Boise, ID 83705

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Emily A. Mac Master  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☒ Statehouse Mail



Tana Cory, Chief  
Bureau of Occupational Licenses

<b>ACORD CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 01/19/2007
PRODUCER (208)327-3400 FAX (208)327-3462 Fuhriman-Leavitt Insurance Agency, Inc. PO Box 140059 Boise, ID 83704		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED M.A.T R & R Michael Trigg 2378 Panama Street Boise, ID 83705		
		INSURERS AFFORDING COVERAGE
		NAIC #
		INSURER A: Auto-Owners Insurance
		INSURER B:
		INSURER C:
		INSURER D:
		INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS			
A	<b>GENERAL LIABILITY</b>	PENDING	01/19/2007	01/19/2008	EACH OCCURRENCE \$ 1,000,000			
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000			
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$ 5,000			
					PERSONAL & ADV INJURY \$ 1,000,000			
					GENERAL AGGREGATE \$ 2,000,000			
					PRODUCTS - COMP/OP AGG \$ 2,000,000			
	GEN'L AGGREGATE LIMIT APPLIES PER:							
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC							
	<b>AUTOMOBILE LIABILITY</b>				COMBINED SINGLE LIMIT (Ea accident) \$			
	<input type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$		
<input type="checkbox"/> ALL OWNED AUTOS		BODILY INJURY (Per accident) \$						
<input type="checkbox"/> SCHEDULED AUTOS		PROPERTY DAMAGE (Per accident) \$						
<input type="checkbox"/> HIRED AUTOS								
<input type="checkbox"/> NON-OWNED AUTOS								
<b>GARAGE LIABILITY</b>				AUTO ONLY - EA ACCIDENT \$				
<input type="checkbox"/> ANY AUTO		OTHER THAN EA ACC \$						
<input type="checkbox"/>		AUTO ONLY AGG \$						
<b>EXCESS/UMBRELLA LIABILITY</b>				EACH OCCURRENCE \$				
<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE		AGGREGATE \$						
<input type="checkbox"/>		\$						
<input type="checkbox"/> DEDUCTIBLE		\$						
<input type="checkbox"/> RETENTION \$		\$						
<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>				WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/>				
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT \$				
If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$				
				E.L. DISEASE - POLICY LIMIT \$				
<b>OTHER</b>								

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

**CERTIFICATE HOLDER**

Idaho Contractor's Board  
 Bureau of Occupational Licenses  
 1109 Main Street, Suite 220  
 Boise, ID 83702-5642

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE  
 Julia Barenberg/JFB

*Julia Barenberg*



## IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

**BEFORE THE BOARD OF CONTRACTORS**

**STATE OF IDAHO**

In the Matter of the Registration of:

MICHAEL TRIGG,  
Registration No. RCT-17851,

Respondent.

)  
)  
)  
)  
)  
)  
)

Case No. CON-2007-20

**ORDER OF EMERGENCY  
SUSPENSION OF REGISTRATION  
AND NOTICE OF HEARING**

This matter having come before the Idaho Contractors Board (hereinafter the "Board") as an emergency proceeding pursuant to the provisions of the Idaho Administrative Procedures Act, Idaho Code § 67-5247, and the provisions of the Idaho Contractor Registration Act, title 54, chapter 52, Idaho Code, the Board finds and orders as follows:

**FINDINGS OF FACT**

After reviewing the file in this matter, it is hereby found that:

1. Michael Trigg (hereinafter "Respondent") is registered to practice as a contractor in the State of Idaho under Registration No. RCT-17851.

2. As stated in the Affidavit of Budd Hetrick filed herein, on or about September 29, 2006, information was received by the Bureau of Occupational Licenses that Respondent's general liability insurance as required by Idaho Code § 54-5210 was canceled as of September 29, 2006. Respondent has failed to provide the Board with verification of current insurance as of September 29, 2006.

3. Respondent's failure to maintain general liability insurance is an ongoing threat to the public health, safety or welfare.

**CONCLUSIONS OF LAW**

Based upon the above findings of fact, the Board hereby reaches the following conclusions of law:

1. Idaho Code § 54-5202 provides that the practice of construction in the State of Idaho affects the public health, safety and welfare of its citizens.

2. Pursuant to Idaho Code § 54-5207, the Board has the responsibility and authority to enforce the provisions of the Idaho Contractor Registration Act.

3. Idaho Code § 54-5210(1)(d) requires registered contractors to maintain workers' compensation insurance or to provide the Board with a statement from an insurance company as to why such coverage is not required.

4. Idaho Code § 54-5210(1)(e) requires registered contractors to maintain general liability insurance covering Respondent's construction operations in the sum of not less than \$300,000 single limit.

5. Pursuant to Idaho Code § 54-5215(2)(a), the Board has the authority to impose discipline against a registered contractor for failure to keep current or provide insurance coverage as required by the Idaho Contractor Registration Act.

6. Pursuant to Idaho Code § 67-5247, the Board may act through an emergency proceeding in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action. The Board is authorized to take such actions as are necessary to prevent or avoid the immediate danger that justifies the use of emergency contested cases.

7. The findings of fact set forth above constitute grounds for the Board to act in an emergency proceeding to protect the public health, safety or welfare. Respondent has failed to maintain general liability insurance as required by the Idaho Contractor Registration Act.

8. The findings of fact set forth above constitute grounds pursuant to Idaho Code § 67-5247 for the suspension of Respondent's registration to practice as a contractor in the State of Idaho. This suspension is necessary to prevent or avoid an immediate danger to the public health, safety or welfare.

### **ORDER**

NOW, THEREFORE, this matter having properly come before the Idaho Contractors Board, and based upon the above findings of fact and conclusions of law, the registration of Michael Trigg to practice as a contractor in the State of Idaho is hereby **SUSPENDED** beginning ten (10) days following the date of service of this Order. The suspension shall remain in effect until the

Board issues an order upon the completion of proceedings in this matter pursuant to Idaho Code § 67-5247(4). The Board shall proceed as quickly as feasible to complete such proceedings.

### **NOTICE OF HEARING**

Pursuant to the provisions of title 54, chapter 52, Idaho Code, and the duly promulgated rules of the Idaho Contractors Board, Respondent is hereby notified and requested to appear before the Board on **January 25, 2007**, at 9:00 a.m., at the Owyhee Plaza, Suite 220, 1109 Main Street, Boise, Idaho, and from time to time thereafter as may be required by the Board. Respondent may appear with or without the assistance of an attorney and present testimony and argument of defense with respect to the alleged violations contained in this Order of Emergency Suspension of Registration. Respondent is further notified that if he fails to appear, the Board may proceed and determine this matter in his absence.

All persons requiring assistance pursuant to the Americans with Disabilities Act in order to participate in or understand the hearing must request such assistance ten (10) days in advance of the hearing by contacting the Board at (208) 334-3233 or at 1109 Main Street, Owyhee Plaza, Suite 220, Boise, Idaho 83702-5642.

The hearing will be conducted pursuant to the Administrative Procedure Act codified at title 67, chapter 52, Idaho Code, the Idaho Rules of the Administrative Procedure of the Attorney General, promulgated at IDAPA 04.11.01, the Rules of the Bureau of Occupational Licenses, promulgated at IDAPA 24.20.01, and any relevant statutes or rules enacted by the Board pertaining to contested case proceedings. Copies of the Administrative Procedure Act and the Idaho Rules of the Administrative Procedure of the Attorney General may be obtained at the Idaho State Law Library. Please be advised that the Board will take official notice of the files and licenses of Respondent. Please be further advised that pursuant to Idaho Code § 67-5213, Respondent or Respondent's representative are prohibited from contacting any Board member or hearing officer with regard to this matter.

DATED this 19th day of December, 2006.

IDAHO CONTRACTORS BOARD

By

Jerry Nemec, Chair

### NOTICE OF DUE PROCESS RIGHTS

This is a final order of the Board. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Board will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- a. A hearing was held,
- b. The final agency action was taken,
- c. The party seeking review of the order, resides, or
- d. The real property or personal property that was the subject of the agency action is located.

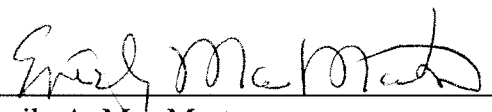
An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19<sup>th</sup> day of December, 2006, I caused to be served a true and correct copy of the foregoing by the following method to:

Michael Trigg  
2378 W. Panama Street  
Boise, ID 83705

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

  
\_\_\_\_\_  
Emily A. Mac Master  
Deputy Attorney General